



9. Admits the allegations of paragraph 59.

10. Ze'tone denies the allegations of paragraph 60 except admits that Krizia entered into an agreement regarding the installation of monitors, and Ze'tone refers to the written contract for its terms.

11. Denies the allegations of paragraph 61.

12. Denies the allegations of paragraph 62.

### **AFFIRMATIVE DEFENSES**

#### **First Affirmative Defense**

13. The counterclaims fail to state a claim upon which relief can be granted.

#### **Second Affirmative Defense**

14. The counterclaims are barred, in whole or in part, by the doctrines of estoppel and waiver.

#### **Third Affirmative Defense**

15. The counterclaims are barred, in whole or in part, by the doctrine of unclean hands.

#### **Fourth Affirmative Defense**

16. The counterclaims are barred under the applicable statute of limitations.

#### **Fifth Affirmative Defense**

17. Subject to proof, Krizia has failed to mitigate its damages, if any.

#### **Sixth Affirmative Defense**

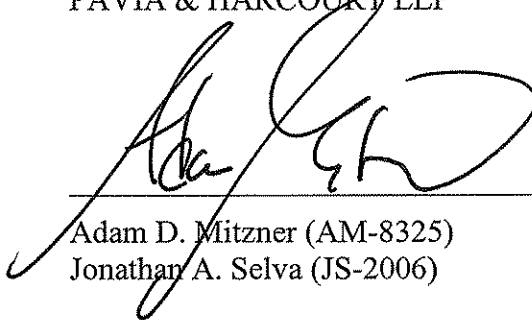
18. The counterclaims should be dismissed for failure to name an indispensable party under Fed. R. Civ. P. 19.

**WHEREFORE**, Ms. Ze'tone requests the following relief  
with regard to Krizia's counterclaims:

1. Dismissal of each counterclaim with prejudice;
2. Attorneys' fees, costs, and expenses incurred in the defense of the counterclaims.
3. Such other and further relief as is just and fair.

Dated: March 10, 2008  
New York, New York

PAVIA & HARCOURT LLP



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(212) 980-3500  
(212) 980-3185

Counsel to Plaintiff Nicole Ze'tone

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

-----X  
NICOLE ZE'TONE,

Plaintiff,

-against-

KRIZIA S.p.A. and FRANCESCO VITALE,

Defendants.  
-----X

Civil Action No.08 Civ. 0495 (DC):

**AFFIDAVIT OF SERVICE**

STATE OF NEW YORK        )  
                                  : ss.:  
COUNTY OF NEW YORK    )

**Max Smith**, being duly sworn, deposes and says:

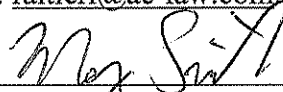
Deponent is not a party to the within action, is over 18 years of age, and resides in Bronx, New York. On March 11, 2008, deponent served a true copy of the REPLY TO COUNTERCLAIMS, upon the following counsel of record:

**FEDERAL EXPRESS TRACKING NO. 7998 1688 1402**

Richard P. Altieri, Esq.  
Altieri & Esposito, LLC  
420 Fifth Avenue  
26<sup>th</sup> Floor  
New York, NY  
10018-2729  
Attorney for Krizia S.p.A.

by depositing a true copy thereof, enclosed in a post-paid wrapper, in an official depository under

the exclusive care and custody of Federal Express, for overnight delivery, prior to the latest time designated by that service for priority overnight delivery. Deponent has also served true copies of the REPLY TO COUNTERCLAIMS upon Richard P. Altieri, Esq., Attorney for Krizia S.p.A. by e-mail to the following e-mail address: raltieri@ae-law.com

  
\_\_\_\_\_  
MAX SMITH

Sworn to before me this  
11<sup>th</sup> day of March, 2008

  
\_\_\_\_\_  
NOTARY PUBLIC

MELINDA S. LIPSKY  
Notary Public, State of New York  
No. 011495182  
Qualified in Nassau County  
Certificate filed in New York County  
Commission Expires March 24, 2010